IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Civil Revision No.4039 of 2006

Date of Decision: 14.09.2006

Dr.S.S.Khurana ...Petitioner

Vs.

Smt.Maina Devi ...Respondent

CORAM Hon'ble Mr.Justice Vinod K.Sharma

Present: Mr.Umesh Narang, Advocate,
for the petitioner.

Mr.T.C.Dhanwal, Advocate,
for the respondent.

Vinod K.Sharma, J. (Oral)

Present revision petition has been filed against the order dated 5.4.2006 passed by the learned Trial Court declining the application for consolidation of the two cases titled Dr.S.S.Khurana Vs. Maina Devi and Maina Devi Vs. Dr.S.S.Khurana which are pending in the same Court.

Learned counsel for the petitioner contends that both the suits arise out of same cause of action. The respondent herein had filed a suit claiming compensation of Rs.5,00,000/- on account of damages whereas the petitioner has also filed a suit against the respondent herein claiming compensation for a sum of Rs.50,000/- for intentionally and knowingly defaming him.

The learned Trial Court has rejected the said application by holding that the evidence to be led would not be of similar nature as also the nature of the cause of action in both the cases appear to be different.

Learned counsel for the petitioner contends that for succeeding in both the cases the parties have to lead similar evidence i.e. regarding negligence as well as regarding defamation arising therefrom and therefore, the suits ought to have been consolidated. On the other hand, learned counsel for the respondent vehemently contended that the learned trial court was right in rejecting the application as the cause of action in both the cases are different and evidence to be led would be totally different and therefore, the cases cannot be consolidated.

I have considered the arguments raised by the learned counsel for the parties and find that the suits are interconnected and arise out of same cause of action i.e. the treatment by the petitioner given to the respondent and subsequent conduct of the parties arising therefrom.

Accordingly the revision petition is allowed. The impugned order is set aside. The application moved by the petitioner for consolidation of the suit is allowed.

(Vinod K.Sharma)
Judge

14.09.2006
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